

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

Original Application No. 348/93

Transfer Application No.

Date of decision 11.10.1993

Shri S.S.Jamwal. Petitioner

Shri M.S.Ramamurthy. Advocate for the Petitioner

versus

Union of India. Respondent

Shri M.S.Karnik (for Shri P.M.Pradhan) Advocate for the Respondent(s)

Coram :

The Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,

The Hon'ble Shri N.K.Verma, Member(A).

1. Whether the Reporters of local papers may be allowed to see the Judgement ?

2. To be referred to the Reporter or not ?

3. Whether the Lordships wish to see the fair copy of the Judgement ?

4. Whether it needs to be circulated to other Benches of the Tribunal ?

.....
(M.S.DESHPANDE)
VICE-CHAIRMAN

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH.

Original Application No. 348/93.

Shri S.S.Jamwal.

..... Applicant.

V/s.

Union of India.

..... Respondent.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman,
Hon'ble Shri N.K.Verma, Member(A).

Appearances:

Applicant by Shri M.S.Ramamurthy.
Respondents by Shri V.S.Masurkar
and Shri M.S.Karnik (for Shri P.M.
Pradhan).

Per Shri M.S.Deshpande, Vice-Chairman Dt. 11.10.1993.

Heard Shri M.S.Ramamurthy for the applicant,
Shri V.S.Masurkar and Shri M.S.Karnik (for Shri P.M.
Pradhan) for the Respondents.

2. This application is directed against the suspension and the departmental inquiry which has been initiated against 2 the applicant. The applicant belongs to the Indian Administrative Service and was allotted to the Maharashtra cadre. ^{Ex. 'A'} He came to be suspended by the order/ passed on 26th June, 1992 by the State Government after obtaining ~~order of the competent authority because of~~ the sanction under section 6(1)(c) of the Prevention of Corruption Act, 1947 and in contemplation of disciplinary proceedings. The charge sheet was given to the applicant 49 days after he was placed on suspension. The charges were that he committed gross mis-conduct in not obtaining prior permission of the competent authority for acquisition of two flats in the name of his wife, in not taking prior permission or giving intimation to the competent authority about winning ~~of~~ three lottery prizes by his children and in not obtaining permission

to
and having failed to intimate the competent authority
about the acquisition and sale of Gold ornaments
either in his own name or in the name of his wife.
The prosecution has not so far been launched.

3. The first submission of Shri Ramamurthy, learned counsel for the applicant is that the State Government which placed the applicant on suspension was bound to initiate proceedings within 45 days and since this was not done and the confirmation of the Central Government had not been obtained, the suspension would not be valid in view of the proviso to Sub-Rule 1 of Rule 3 of All India Services Discipline and Appeal Rules, 1969. What the submission overlooks is that factually here the applicant was directed to be placed under suspension by the Central Government which had issued a direction to the State Government to place him under suspension by the letter dt. 15.6.1992. The letter is signed by the Deputy Secretary to the Government of India informing that the decision had been taken that pending trial of the criminal case against the applicant and the conclusion of the RDA proceedings against him under way, the officer may be placed under suspension. The proviso on which reliance is placed by the applicant bears upon the powers of the State Government to place an Officer under suspension and no such restriction is placed on the Central Government. The requirements of the second proviso to Sub-rule(c) (are) squarely (met) in the present case because the directions to place the applicant under suspension emanated from the Central Government and they came to be implemented by the State Government. We therefore, see no breach of the

mandatory provisions of Sub-rule 1 of Rule 3 aforesaid.

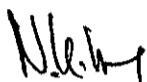
4. The second submission was that there was no material to justify suspension in the year 1992 when the applicant's lapses, if any, were discovered in the year 1987 and the charges would be trivial because there is no restriction upon the relations of the applicant to acquire property whether ~~movable or~~ immovable. We see no substance in this argument either, because Rule 16 of the All India Services (Conduct) Rules, 1968 ~~refers~~ to both movable and immovable property and Sub-rule 4 of Rule 16 is specific in that a member of service is obliged to report to the Government within one month of the date of every transaction entered into by him either in his own name if in respect of movable ~~the value~~ property/exceeds ~~Rs.~~10,000/-.

5. We must make it clear that we are not referring to the merits of the defence of the applicant and are only going by the charges which ~~have~~ been framed and we are satisfied that on the material ~~which~~ has been placed on record it cannot be said that the charges were either frivolous or malafide.

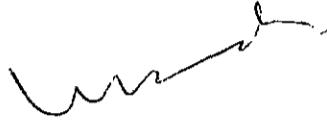
6. The next contention was that since criminal prosecution is also contemplated it would prejudice the applicant if the departmental proceedings were allowed to be continued as his defence at the criminal trial would be substantially the same as in the departmental proceedings. We have already referred to the position that though the criminal prosecution has been contemplated ~~it has~~ not yet been initiated and we do not think that the departmental proceedings should be stalled at this stage. It would be open/at a later

stage after the criminal prosecution is initiated () to approach the Tribunal for staying the departmental proceedings. It would be pre-mature at this stage to stall the departmental proceedings.

7. In the result, we see no merit in the application. It is dismissed.


(N.K.VERMA)

MEMBER (A)


(M.S.DESHPANDE)

VICE-CHAIRMAN.

B.